IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 24116 of 2003

Between:

P.D.Viswanatham S/o Veerappa, Retired Deputy Registrar of Cooperative Societies, R/o B-30, F-4, Vijayanagar Colony,
Hyderabad.

..... PETITIONER

AND

1. The Joint Registrar (Services),
   O/o The Commissioner for Cooperation And Registrar of

Cooperative Societies, Andhra Pradesh, Hyderabad.

2. The Commissioner for Cooperation And Registrar of Cooperative

Societies, Andhra Pradesh, Hyderabad.

3. Government of Andhra Pradesh, represented by its Secretary,

Cooperation Department, Secretariat, Hyderabad.

4. Government of Andhra Pradesh, represented by its Secretary,

Finance And Planning Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or Direction(s) essentially in the nature of Writ of Mandamus declaring that the petitioner herein is entitled for fixation of pay on par with his juniors accordance with the recommendations of the Commissioner for Cooperation and Registrar of Cooperative Socities, Andhra Pradesh, Hyderabad vide Letter Rc. No. 21194/91/Estt.I (HO), dated 26-08-1991 with all consequential benefits such as arrears of pay and other attendant benefits by holding the action of the Respondents in negativing the claim of the Petitioner vide proceedings No. 21194/91/E11, dated 17-07-1995 while allowing the claim of similarly placed persons Sri. T. A. Chary (Deputy Registrar) vide proceedings Rc. No. 58071/92-C1, dated 04-04-1994 issued by the Commissioner of Cooperation and Registrar of Cooperative Societies is illegal, arbitrary, discriminatory and subversive of Articles 14,16 and 21 of the Constitution of India, and set a side the Judgment dated 18-06-2003 rendered by Hon'ble Andhra Pradesh Administrative Tribunal in O.A. No.1391 of 1996.

Counsel for the Petitioner: MR.A.NAGENDRA RAO
Counsel for the Respondents: GP FOR SERVICES I

The Court made the following :

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ORDER: (Per the Hon'ble Sri Justice G.Bikshapathy)

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1. The writ petition is filed challenging the order dated 18.06.2003 passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No.1391 of 1996. The petitioner claimed the relief seeking declaration that he is entitled for fixation of pay on par with his juniors in accordance with the recommendations of the Commissioner for Cooperation and Registrar of Co-operative Societies, Andhra Pradesh, Hyderabad dated 26-08-1991 with all consequential benefits.

2. It is the case of the petitioner that T.A.Chary (Deputy Registrar) is junior to him and therefore when he is drawing higher pay, his pay also step up on par with T.A.Chary. The said demand having been rejected by the authorities, he approached the Tribunal for appropriate relief. The Tribunal after considering the matter, dismissed the O.A. by an order dated 18.06.2003. Against the said order, the present writ petition has been filed.

3. The learned counsel for the petitioner, however, submits that the Tribunal did not consider the matter in proper perspective. He further submits that when admittedly T.A.Chary was junior to him and he is drawing more pay than the petitioner, the pay of the petitioner ought to have stepped up to that of his junior so as to parity of scales and also in view of the principles of equal pay for equal work. Hence, the order of the Tribunal is liable to be set aside.

4. The Tribunal has discussed this matter in extensive in the following paragraph:

" On a careful consideration of the submissions made it is clear that Sri T.A.Chary was given pay fixation comparing his pay with that of Sri Ramachandraiah who is junior to him. But Ramachandraiah was appointed as Junior Inspector and by virtue of the weightage given to long continuation of service in the special pay scale he got more pay while fixing his pay after promotion as Senior Sub-Registrar. Whereas the

applicant and Ch.Subba Rao, whose service record is not available here appears to have joined the service as Senior Sub-Registrar directly. So, the applicant cannot compare himself with those cases of Ramachandraiah and others. Clause 2 of G.O.182 dated 7.5.1984 and Rule 22 B clearly mentions that both junior and senior officer should belong to the same cadre and posts to which they are promoted should be identical and the same cadre. In this case, the pay fixation made to T.A.Chary on the basis of pay of Ramachandraiah itself is to be doubted inasmuch as Ramachandraiah was recruited in Junior Sub-Registrar cadre by virtue of weightage given to him by 2 steps in the SSP cadre and special grade cadre by the time he reached the Senior Sub-Registrar cadre and pay fixation in that cadre after promotion he got more pay. It may be a rule. But, when once that rule is acting upon for long time now that cannot be interfered. So, even wrong fixation of pay of T.A.Chary on the basis of the pay drawn by Ramachandraiah is going to be reviewed. So when that is the stand of the Government, there cannot be any complaint and there is no reasonable ground to accept the plea of the applicant for fixation of pay on par with Ramachandraiah and others, belonging to different cadres at the time of appointment and since they were promoted and the applicant were direct recruit there cannot be any parity between direct recruitees and promotees. Since the promotees would have more service to be reckoned for the purpose of pay fixation, that cannot be taken as basis for pay fixation for direct recruit to which the applicant and T.A.Chary belongs to. So there are no valid grounds to interfere with the impugned orders and accordingly the O.A., is dismissed."

5. It has been categorically held by the Tribunal that Mr.Chary cannot be compared with the petitioner as he is a promotee and his pay is fixed on the basis of the FR-22 (B). Under those circumstances, we do not find any illegality in the order passed by the Tribunal.

6. The writ petition is, accordingly, dismissed. No costs.

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G.BIKSHAPATHY, J

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B.SESHASAYANA REDDY, J

Date: 30-11-2004.

Chvn/BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Joint Registrar (Services),
   O/o The Commissioner for Cooperation And Registrar of

Cooperative Societies, Andhra Pradesh, Hyderabad.

2. The Commissioner for Cooperation And Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad.

3. Government of Andhra Pradesh, represented by its Secretary, Cooperation Department, Secretariat, Hyderabad.

4. Government of Andhra Pradesh, represented by its Secretary, Finance And Planning Department, Secretariat, Hyderabad.

5. The Chairman, A.P., Administrative Tribunal, Hyderabad.

6. Two CCs to the Government Pleader for Services I, High Court Buildings, Hyderabad (OUT).

7. Two CD copies.